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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,490	01/11/2002	Takao Kobayashi	S011-4526	9686

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EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 10/01/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,490

Applicant(s)

KOBAYASHI ET AL.

Examiner

Kenneth E P terson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2-4,7 and 8 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,5,6 and 9-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,5,6,13 and 17-19 rejected under 35 U.S.C. 102(e) as being anticipated by Nagashima '547, who shows a handle (10,11) having a throttle lever (30), a link mechanism relay member (41), a main wire (18), a throttle wire (17) and a brake wire (68). Prior to actuation of the throttle lever, Nagashima's throttle wire has play in it (lines 27-33, column 1, lines 36-47, column 3, lines 18-21, column 6) that causes a delay in actuation of the throttle.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,5,6,12,13 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagashima '547 in view of Japanese patent 401116340 to Tabata. Nagashima, as set forth above, uses play in the throttle line to cause a delay in throttle actuation, as opposed to distancing the end of the throttle cable (19) from the

second lug portion (41A,41C) of the relay member (41). However, in the art of levers that control both brake release and throttle, Tabata shows that it is well known to space the end of the throttle cable from the member that moves it (see figure 2) so that there is a clear chronological separation between brake release and engine revving.

It would have been obvious to one of ordinary skill in the art to have modified Nagashima by replacing his throttle line play with a distancing of the end of the throttle cable from its actuation point, as taught by Tabata, since these are art-recognized equivalents known for the same purpose (see MPEP 2144.06).

5. Claims 1,5,6,9-11,13-16 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagashima '547 in view of Wen.

Nagashima, as set forth above, uses a pivoting element to connect one wire to two other wires. However, any of a number of other types of connections are well known and would do in this situation. For example, Wen shows in figure 2 a linearly moving U-shaped element for connecting one wire to two wires.

It would have been obvious to one of ordinary skill in the art to have modified Nagashima by replacing his pivoting connection element with Wen's linear, U-shaped element, since these are art-recognized equivalents known for the same purpose (see MPEP 2144.06). Nagashima's throttle wire would then be redirected in the opposite direction by a known pulley or the like.

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant has overcome the rejection under 35 USC 112.

In regards to what direction Applicant should go to overcome the above rejection, Applicant may want to try combining all of claims 13-16, 19 and 20 along with some further details of exactly how the wires meet at the U-shaped relay member. If written with sufficient detail, such an amendment may overcome the prior art rejection.

Further made of record but not applied are patents to Nagashima ('866 and '797 and '973), Carlson, Kobayashi, Iwata.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday-Thursday, 7:30-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached at 703-308-1082.

All responses are encouraged to be by fax at 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

kp

September 25, 2003



KENNETH E. PETERSON
PRIMARY EXAMINER